

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

Bail Appl..No. 5795 of 2007()

CRIME NO.1190/07 OF CENTRAL POLICE STATION, ERNAKULAM.

PETITIONER/ACCUSED

SATHEESH CHANDRAN, AGED 55 YEARS,
S/O. C.P.SREEDHARAN, PARVATHY, VIVEKANANDA NAGAR,
ELAMAKKARA, COCHIN-26.

BY ADV. SMT.M.V.RETNAMMA
SRI.V.K.SUBRAMANIAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR OF POLICE, ALUVA POLICE STATION,
ALUVA, THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 26/09/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

B.A.No. 5795 of 2007

Dated this the 26th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner is the 4th accused. He faces allegations for offences punishable, inter alia, under Section 420 I.P.C. Altogether there are four accused persons. The first accused is the principal accused. Accused 2 and 3 are advocates - father and son - who were allegedly engaged to espouse the cause of the defacto complainant. The petitioner is the 4th accused.

2. The soul or gravamen of the allegations is that when the defacto complainant received a call from the Neyyattinkara police station asking for details of a vehicle, of which he was the former owner, the defacto complainant became panicky. He contacted the first accused. The first accused agreed to do the needful. He engaged accused 2 and 3 to provide legal aid and advice to the defacto complainant. They together proceeded to Neyyattinkara. The petitioner herein also accompanied them to Neyyattinkara. The first accused made false representation that the defacto complaint was

required to be arrested in an Abkari crime and that huge amounts have to be paid to the officials and the Court to save him of the trauma of such proceedings and amounts exceeding Rs. 5 lakhs was thus fraudulently obtained from the defacto complainant. The defacto complainant later realised that there is no allegation under the Abkari Act at all against him. The defacto complainant realised this when he took courage and went directly to the police station. Thereafter he lodged the present crime. Investigation is in progress. The first accused has already been arrested. Investigation is in progress. The petitioner apprehends imminent arrest.

3. The learned counsel for the petitioner submits that even if the entire allegations were accepted as gospel truth, the petitioner has absolutely no contumacious role. The allegations do not at all reveal that the petitioner had shared any common intention with the first accused or any one else to defraud the defacto complainant. It is true that the petitioner was called and he had accompanied the first accused, the defacto complainant and his uncle and the sureties to Neyyattinkara in a car. Even going by the averments in the F.I. statement the petitioner had returned long before the first accused fraudulently extracted the amount of Rs. 5 Lakhs from the defacto complainant. The petitioner is absolutely innocent. He

does not deserve to endure the trauma of arrest and detention. Appropriate directions under Section 438 Cr.P.C. may, in these circumstances, be issued, submits the counsel.

4. The learned Prosecutor does not oppose the application. In the nature of the contentions raised, the learned Prosecutor was requested to place the case diary before me for my perusal. I have anxiously gone through the case diary. I am satisfied in the facts and circumstances of this case that the petitioner can be granted anticipatory bail. Of course, appropriate conditions can be imposed to facilitate a fair, efficient and expeditious investigation.

5. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 3.10.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 5 p.m. on 4.10.07, 5.10.2007 and 6.10.07. During this period, the Investigating Officer shall be entitled to interrogate the petitioner in custody and take necessary steps in the investigation. Thereafter the petitioner shall appear on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 3.10.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 3.10.2007 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 3.10.2007.

